

**STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW
300 CAPITOL MALL, SUITE 1250
SACRAMENTO, CA 95814**

**TITLE 1, CALIFORNIA CODE OF REGULATIONS
ADOPT SECTIONS 50, 52 AND 54, AND AMENDSECTION 55,
REGARDING EMERGENCY REGULATIONS**

TEXT

Text proposed to be added is displayed in *italic* type.

Text proposed to be deleted is displayed in ~~strikeout~~ type.

Section 50. Notice of Proposed Emergency Action

(a) State agencies submitting emergency regulations to OAL pursuant to Government Code section 11346.1 shall include with the emergency regulation either:

(1) A statement confirming that the submitting agency that it has complied with the requirement to provide notice of proposed rulemaking action pursuant to Government Code section 11346.1(a)(2); or

(2) A statement confirming that the submitting agency that the emergency situation addressed by the regulations clearly poses such an immediate, serious harm that delaying action to allow public comment would be inconsistent with the public interest.

(b) An agency submitting a statement pursuant to subdivision (a)(2) shall include the following within the finding of emergency:

(1) Specific facts demonstrating by substantial evidence that failure to adopt the regulation within the 12 calendar days following the date of the certification will result in serious harm to the public peace, health, safety, or general welfare; and

(2) Specific facts demonstrating by substantial evidence that enactment of the proposed regulation can be reasonably expected to prevent or significantly alleviate that serious harm.

(c) OAL shall disapprove any emergency regulation submitted with a statement submitted pursuant to subdivision (a)(2) if it determines that the finding of emergency does not satisfy the requirements of subdivision (b).

NOTE

Authority cited: Section 11342.4, Government Code. Reference: Sections 11342.545, 11346.1, 11349.6, Government Code.

Section 52. Readoption of Emergency Regulations

(a) Readoption of an emergency regulation pursuant to section 11346.1(h) of the Government Code does not require sending a notice of the proposed regulatory action pursuant to section 11346.1(a)(2).

(b) An agency requesting readoption of an emergency regulation shall provide the following:

(1) Documentation explaining any changes in the emergency situation since the initial adoption of the emergency regulation;

(2) Updated documentation required by section 11346.1 of the Government Code for the initial submission of the emergency regulation, if necessary to reflect circumstances that have changed since the initial adoption or prior readoption,; and

(3) A statement providing specific facts demonstrating by substantial evidence that the agency has made substantial progress and proceeded with diligence to comply with section 11346.1(e) of the Government Code.

NOTE

Authority cited: Section 11342.4, Government Code. Reference: Sections 11342.545, 11346.1, 11349.6, Government Code.

Section 54. Findings of Emergency

If the situation identified in the finding of emergency existed and was known by the agency adopting the emergency regulation more than 270 days prior to submission of the emergency regulation to OAL, the finding of emergency shall include facts explaining the failure to address the situation through nonemergency regulations.

NOTE

Authority cited: Section 11342.4, Government Code. Reference: Sections 11342.545, 11346.1, 11349.6, Government Code.

Section 55. OAL Review of Public Comments.

(a) OAL may consider comments submitted directly to OAL by the public in connection with emergency regulation reviews, including the review of an emergency regulation proposed to be readopted. OAL shall not consider comments submitted directly to OAL by the public when OAL is reviewing:

(1) certificate of compliance regulation filings under Government Code sections 11346.1(e) and 11349.6(d); or

(2) non-emergency regulation filings under Government Code section 11349.3.

(b) *Except when the emergency situation addressed by the regulations clearly poses such an immediate, serious harm that delaying action to allow public comment would be inconsistent with the public interest, in* ~~in~~ reviewing emergency regulations pursuant to Government Code section 11349.6(b), OAL ~~may~~ *shall* consider comments received from the public concerning the proposed emergency adoption, amendment, or repeal, including comments regarding the finding of emergency, when all of the following conditions are met:

- (1) The comments are submitted to OAL in writing;
- (2) The comments are received by OAL ~~prior to the time OAL makes its decision regarding the approval or disapproval of the regulations~~ and within five calendar days after the receipt of the regulations by OAL;
- (3) The comments contain a notation that they are submitted to OAL for consideration in connection with an emergency regulation review and identify the topic of the emergency regulations to which they relate; and
- (4) OAL has confirmed that a copy of the comments has been transmitted to the rulemaking agency's contact person for the emergency regulation filing, as designated by the rulemaking agency on the Form 400.

(c) OAL shall not consider comments concerning emergency regulations unless the comments meet all of the conditions specified in subsections (b)(1) through (4).

(d) Any person who submits comments concerning emergency regulations to OAL shall first transmit a complete copy of the comments to the rulemaking agency's contact person for the emergency regulation filing as designated by the rulemaking agency on the Form 400.

(e) OAL shall provide any person interested in submitting comments concerning emergency regulations with the name, address, and telephone number of the rulemaking agency's contact person for the emergency regulation filing as designated by the rulemaking agency on the Form 400.

(f) When OAL considers comments concerning emergency regulations which meet the conditions for consideration set forth in subsections (b)(1) through (4), OAL shall contact the rulemaking agency within one working day after the receipt of the comments to confirm that the comments are being considered by OAL. OAL shall inform the rulemaking agency at that time that the agency has the opportunity to rebut or otherwise respond to the comments.

(g)(1) Except as provided in subsections (2) and (3), OAL shall consider rulemaking agency rebuttals or responses to comments concerning emergency regulations if, and only if, they are submitted to OAL in writing and are received by OAL within eight calendar days after the receipt of the regulations.

(2) If the eighth calendar day falls on a Saturday, then the agency rebuttal or response is due on the seventh calendar day.

(3) If there are one or more state holidays between the fifth calendar day and the eighth calendar day after the regulations were filed with OAL, then the agency rebuttal or response is due on the ninth day. However, if that ninth calendar day falls on a Saturday, Sunday, or a state holiday, the agency's rebuttal or response is due by

10:00 a.m. of the last day the regulation must be reviewed by OAL in accordance with Government Code section 11349.6(b).

(h) For purposes of compliance with this section, OAL may elect to treat multiple substantially similar comments received from different sources as a single comment submission.

Note: Authority cited: Sections 11342.4 and 11349.1, Government Code. Reference: Sections *11342.545*, 11346.1, 11349.1, 11349.3 and 11349.6, Government Code.